



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

EPA Region 5 Records Ctr.



225362

08 MAR 2000

REPLY TO THE ATTENTION OF

SE-5J

VIA FAX AND  
FIRST CLASS MAIL

Michael J. Witte  
R.M. Chin & Associates (RMC)  
401 N. Michigan Avenue  
Chicago, Illinois 60611

Dear Mr. Witte:

The purpose of this letter is to recap and confirm the main points of our discussions held and decisions made during our meeting of March 3, 2000 at U.S. EPA Region 5 in Chicago, Illinois. As Mary Fulghum stated at the outset of the meeting, we have no doubt that the discovery of radioactive materials at the North Columbus Drive site presents enormous difficulties for everyone involved. The delay in the discovery of the radiation associated with Kerr-McGee Chemical L.L.C.'s decline of U.S. EPA's request to conduct surveillance of the Grand Pier property, as well as Grand Pier L.L.C.'s slow consent to U.S. EPA for access to the Grand Pier property, served only to exacerbate the site issues, especially health and safety and offsite transportation and disposal of soils and other materials taken from the Grand Pier property. Added to the delay was Grand Pier's contractor's initial refusal to allow U.S. EPA access after U.S. EPA personnel explained that the site owner had given consent. Later, the same contractor refused to follow heavy equipment decontamination protocol. These delays and lack of cooperation created an atmosphere that was not conducive to productive relations. To avoid future delays and misunderstandings and their attendant costs, it is imperative that Grand Pier L.L.C., Kerr-McGee Chemical L.L.C. and River East L.L.C. work closely and cooperatively to coordinate response activities with one another and with U.S. EPA.

Work To be Conducted Pursuant to June 1996 UAO

As we explained during the meeting and in Mary Fulghum's letter to Michael Rissman dated March 1, 2000, the U.S. EPA's June 1996 unilateral administrative order to Kerr McGee and River East requires them to conduct offsite radiation surveillance and implement 40 C.F.R. 192 as necessary. Unless and until the June 6, 1996 UAO is amended or a new order is issued, it remains the responsibility of Kerr-McGee and River East to comply with the requirements of the 1996 UAO. We learned in the March 3rd meeting that Grand Pier is using STS Consultants, which conducted radiation surveillance at the Lindsay Light II site for River East, to perform radiation surveillance and develop an assessment work plan. U.S. EPA explained that it was unnecessary to develop a new Health and Safety Plan for the Grand Pier property although

different conditions or activities may be identified at the Grand Pier site that could require amendments to the existing Lindsay Light II Health and Safety Plan. We also explained that the procedures U.S. EPA approved for the Lindsay Light II site assessment and cleanup could also be transferred to the offsite contamination, with accommodations, for differing site conditions. U.S. EPA also noted that while presently Grand Pier was not subject to the June 1996 order, it could not interfere or undertake any cleanup action at the facility inconsistent with the June 1996 UAO per the provisions of the Section 122(e) (6) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA").

#### Site Status

Grand Pier stated that it had stopped ongoing development work at the property and implemented surveillance and decontamination procedures consistent with the site security measures per Mary Fulghum's letter dated March 1, 2000. The only exception was that Grand Pier would not maintain a security person after working hours as the Lindsay Light II site did not have an after-hours security guard.

#### Information Sharing

U.S. EPA also requested that Grand Pier provide, at a follow up coordination meeting on March 8, any available radiation sampling results, copies of construction plans, environmental assessments and underground storage tank removal information.

#### Disposal Site Surveillance

On Thursday March 2, 2000 Ray Strom Excavating gave U.S. EPA a list of the sites where his companies disposed of soils, concrete and asphalt from the site. Grand Pier indicated that STS Consultants would conduct surveillance of the materials at the landfills. U.S. EPA requested that STS give U.S. EPA 24 hours notice before conducting a survey so that it could also participate.

#### U.S. EPA Enforcement Options

We also explained that U.S. EPA was considering several enforcement options for the work at the North Columbus property including a participate and cooperate order, an amended order or an entirely new order. We stated that U.S. EPA wanted to take a measured enforcement response to the situation if the circumstances allowed. Although we want to avoid unnecessary hardship to any of the affected parties, if we are concerned that activities at the property do not comply with the June 1996 UAO and the work authorized under it, we will take immediate action to compel the necessary work and, if appropriate, to penalize any noncompliance or interference.

#### Conclusion

Throughout the meeting U.S. EPA reiterated that cooperation and coordination were absolutely essential to timely and successful resolution of the issues that we face at the site. We were

encouraged by Grand Pier's repeated statements of its intent to work cooperatively with U.S. EPA and Kerr-McGee and River East.

I look forward to meeting with you this afternoon.

Sincerely,

*Fredrick A. Micke*

Fredrick A. Micke, P.E.

On-Scene Coordinator

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